

OFFICIAL COPY

Fresno, California

December 3, 2002

The City Council met in regular session at the hour of 8:32 a.m. in the Council Chambers, City Hall, on the day above written.

|          |               |                          |
|----------|---------------|--------------------------|
| Present: | Tom Boyajian  | Councilmember            |
|          | Brian Calhoun | Councilmember            |
|          | Brad Castillo | Acting Council President |
|          | Jerry Duncan  | Councilmember            |
|          | Sal Quintero  | Councilmember            |
|          | Dan Ronquillo | Councilmember            |
|          | Henry Perea   | Council President        |

Dan Hobbs, City Manager  
Hilda Cantu Montoy, City Attorney  
Becky Klisch, City Clerk  
Yolanda Salazar, Assistant City Clerk

Pastor Roger Daniel, Life Cathedral Church, gave the invocation, and President Perea led the Pledge of Allegiance to the Flag.

RECOGNITION TO COUNCILMEMBER QUINTERO BY DAN HARTMAN REPRESENTING THE VETERANS' CRISIS PROGRAM

PROCLAMATION OF CANDLELIGHT CHRISTMAS ON HUNTINGTON BOULEVARD DAYS - COUNCILMEMBER QUINTERO

Councilmember Quintero was recognized and presented with a plaque, and the proclamation was read and presented.

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PROCLAMATION OF BRENDA BALDWIN DAY - COUNCILMEMBER BOYAJIAN

PROCLAMATION OF TRUE VALUE ACE HARDWARE STORE DAY

Not present when called.

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APPROVE MINUTES OF NOVEMBER 19, 2002

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the minutes of November 19, 2002, approved as submitted.

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## **APPROVE AGENDA:**

**(1-C)** APPROVE APPLICATION FOR AND ACCEPTANCE OF TWO 80/20 PERCENT MATCH, HAZARDOUS MATERIALS PUBLIC EDUCATION GRANTS, TOTAL OF \$27,900 FROM THE U.S. DEPARTMENT OF TRANSPORTATION (DOT) THROUGH THE CALIFORNIA OFFICE OF EMERGENCY SERVICES (OES), AND AUTHORIZE THE EXECUTION OF DOCUMENTS

**1. \* RESOLUTION - 43<sup>RD</sup>** AMENDMENT TO AAR 02-216 APPROPRIATING \$27,900 TO THE FIRE DEPARTMENT'S GRANT FUNDS ACCOUNT TO PRODUCE A PUBLIC EDUCATION PROGRAM

Laid over one week at the request of staff.

**(2-A) \* BILL (for introduction)** - ADOPTING THE 2001 CALIFORNIA BUILDING STANDARDS CODES, AS AMENDED, ALONG WITH THE "MODEL CODES" INCLUDING THE 1997 UNIFORM BUILDING CODE, THE 2000 UNIFORM MECHANICAL CODE, THE 2000 UNIFORM PLUMBING CODE, AND THE 1999 NATIONAL ELECTRICAL CODE

**1. \* BILL** - REPEALING DIVISIONS 1, 2, 3, AND 4 AND REENACTING DIVISIONS 1, 2, 3, AND 4 OF ARTICLE 1, CHAPTER 13, OF THE FRESNO MUNICIPAL CODE RELATING TO BUILDING, MECHANICAL, PLUMBING AND ELECTRICAL REGULATIONS

**2. RESOLUTION** - AFFIRMING THE EXPRESS FINDINGS FOR MODIFICATIONS TO THE 2001 CALIFORNIA BUILDING STANDARDS CODE

City Clerk Klisch corrected the title advising there was only one bill for introduction. So noted.

**(5-D)** REQUEST TO SET A COUNCIL HEARING TO RECONSIDER THE PLANNING COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT (CUP) NO. C-02-145 RELATING TO THE PLACEMENT OF A CELLULAR TELEPHONE MONOPOLE ON THE WEST SIDE OF "R" STREET BETWEEN INYO AND VENTURA STREETS - COUNCILMEMBER RONQUILLO

At the request of Councilmember Ronquillo and by Council consensus, the item was set for 2:35 p.m. for citizen convenience.

**(2:30 P.M.)** CONTINUED HEARING ON PLAN AMENDMENT NO. A-02-12, REZONING APPLICATION NO. R-02-22, AND ENVIRONMENTAL FINDINGS, FILED BY FRESNO COUNTY ECONOMIC OPPORTUNITIES COMMISSION, PROPERTY LOCATED ON THE EAST SIDE OF S. CEDAR BETWEEN E. WOODWARD AND E. CALIFORNIA AVENUES (2055 S. CEDAR - DISTRICT 5) **(CONTINUE TO 12/17/02, AT 10:00 A.M.)**

Continued as noted.

**(2:45 P.M. #1)** CONTINUED HEARING ON PLAN AMENDMENT NO. A-02-16, REZONING APPLICATION NO. R-02-25, AND ENVIRONMENTAL FINDINGS, FILED BY MAPLE CREEK PARTNERSHIP, PROPERTY LOCATED ON THE NORTHEAST CORNER OF N. MAPLE AND E. TEAGUE AVENUES (DISTRICT 6) **(CONTINUE TO 12/17/02, AT 10:15 A.M.)**

Continued as noted.

On motion of Councilmember Calhoun, seconded by Councilmember Quintero, duly carried, RESOLVED, the **AGENDA** hereby approved, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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**ADOPT CONSENT CALENDAR:**

**(1-A)** APPROVE THE PROPOSED U.S. GOVERNMENT LEASE FOR REAL PROPERTY BETWEEN THE CITY OF FRESNO AND THE TRANSPORTATION SECURITY ADMINISTRATION, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE THE SAME ON BEHALF OF THE CITY

**(1-B)** RATIFY AND APPROVE A LEASE AS MODIFIED BY FAA MODIFICATION NO. 0008, BETWEEN THE CITY OF FRESNO AND THE FEDERAL AVIATION ADMINISTRATION, TO OCCUPY CARGO BUILDING BAY #5, AND AUTHORIZE THE DIRECTOR OF TRANSPORTATION TO EXECUTE RELATED DOCUMENTS AND INSTRUMENTS ON BEHALF OF THE CITY

**(1-D) RESOLUTION NO. 2002-380** - INTENT TO ANNEX TRACT NOS. 4697 AND 5109 AS ANNEXATION NO. 43 TO CITY OF FRESNO COMMUNITY FACILITIES DISTRICT NO. 2, AND AUTHORIZE THE LEVY OF SPECIAL TAXES

On motion of Acting President Castillo, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby approved, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

**CONSENT CALENDAR - BILL FOR INTRODUCTION - RESOLUTION FOR ADOPTION:**

**(2-A)** ADOPTING THE 2001 CALIFORNIA BUILDING STANDARDS CODES, AS AMENDED, ALONG WITH THE "MODEL CODES" INCLUDING THE 1997 UNIFORM BUILDING CODE, THE 2000 UNIFORM MECHANICAL CODE, THE 2000 UNIFORM PLUMBING CODE, AND THE 1999 NATIONAL ELECTRICAL CODE

**1. \* BILL N O. B-62** - REPEALING DIVISIONS 1, 2, 3, AND 4 AND REENACTING DIVISIONS 1, 2, 3, AND 4 OF ARTICLE 1, CHAPTER 13, OF THE FRESNO MUNICIPAL CODE RELATING TO BUILDING, MECHANICAL, PLUMBING AND ELECTRICAL REGULATIONS

**2. RESOLUTION NO. 2002-381** - AFFIRMING THE EXPRESS FINDINGS FOR MODIFICATIONS TO THE 2001 CALIFORNIA BUILDING STANDARDS CODE

On motion of Acting President Castillo, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Bill No. B-62 introduced before the Council and laid over, and the above entitled Resolution No. 2002-381 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea  
Noes : None  
Absent : None

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#### RECOGNITION AWARDS TO DISTRICT 4 STUDENTS - ACTING PRESIDENT CASTILLO

Awards presented.

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Councilmember-Elect Cynthia Sterling was recognized and welcomed.

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#### **(8:30 A.M.) JOINT MEETING WITH THE REDEVELOPMENT AGENCY**

The City Council met in joint session with the Redevelopment Agency at the hour of 8:59 a.m.

#### APPROVE AGENCY MINUTES OF NOVEMBER 19, 2002

On motion of Councilmember Calhoun, seconded by Councilmember Quintero, duly carried, RESOLVED, the Agency minutes of November 19, 2002, approved as submitted.

#### **(“A”) JOINT HEARING TO CONSIDER MATTERS RELATING TO AMENDING THE REDEVELOPMENT PLAN FOR THE ROEDING BUSINESS PARK REDEVELOPMENT PROJECT AREA**

**1. JOINT RESOLUTION - APPROVING AND ADOPTING THE REVISED 2002 REPORT TO COUNCIL ON THE PROPOSED ROEDING BUSINESS PARK REDEVELOPMENT PLAN AMENDMENT, AND COUNCIL ACKNOWLEDGMENT OF RECEIPT OF THE REVISED 2002 REPORT**

**2. BILL - ADOPTING AMENDMENTS TO THE REDEVELOPMENT PLAN FOR THE ROEDING BUSINESS PARK REDEVELOPMENT PROJECT AREA**

Chair Duncan announced the time had arrived to consider the issue and opened the hearing, noted public testimony would be taken this date but Council would not be able to take any action, and advised the hearing would be continued to December 17<sup>th</sup> to allow staff to review and respond to any new input and for final action.

Director Fitzpatrick advised, in addition to the existing public record, staff received several letters relative to the project and pursuant to Redevelopment Law confirmed the joint bodies would be unable to act this date and that final action would be taken on December 17<sup>th</sup>; noted out of eighteen redevelopment project areas this was the only project area that did not have the power of eminent domain; reviewed the issue as contained in the staff report as submitted; and upon request of Councilmember Ronquillo spoke to the new Agency's and several council members' strong involvement in coordinating the work and politics of the \$3 million EDA grant and \$3 million in City/RDA funds to make the improvements possible, and the five years it took get the State's \$32 million surplus to construct 180 west as well as the Hughes-West alignment. Councilmember Ronquillo confirmed the new Agency had done some tremendous things in the last four years for the area that would be booming in the future.

Speaking to the issue were: Dave Spaur, Executive Director, EDC, 906 N St., support for the plan amendments and who gave a power point presentation on the need for the Roeding Business Park **(2 - 0)**; Alfred Garrison, 1987 N. Gateway, support; Barbara Hunt, 246 W. Byrd, opposed; William Brewer, 170 S. Hughes, opposed; and Chris Brown, 6051 N. Fresno #200, representing Stephens & Bean Funeral Chapel, opposed.

\* Visiting students from Powers/Ginsburg were recognized and welcomed.

Continued speakers were: Bob Lango, 1625 W. Neilsen, opposed; Gordy Webster, Chamber of Commerce, 1315 Van Ness, support; Stebbins Dean, CEO, Chamber of Commere, support; Richard Zacky, 315 N. "H" Street, opposed; David Jacobs, "H" & Palm Avenue property owner, opposed; Douglas Thornton, 1690 W. Shaw, Suite 200, opposed, who also presented written material, copies of which are on file in the office of the City Clerk; Paula Yang Vang, 417 W. Belmont, opposed; Donny Buskirk, Rain for Rent, opposed; and M.K. Wight, 307 S. Hughes.

Upon call, no one else wished to be heard and Chair Duncan closed the public hearing.

Mr. Fitzpatrick responded to concerns expressed by Stephens & Bean, Mr. Zacky, Ms. Vang, and Rain for Rent stating staff would work with them on Owner Participation Agreements (OPAs), and advised Mr. Thornton's concerns would be addressed in writing for final determination on December 17<sup>th</sup>. City Attorney Montoy clarified the public hearing was officially closed and there would be no further public testimony on December 17<sup>th</sup>. Mr. Zacky stated it was easy for staff to offer OPAs and questioned the cost stressing people did not need to pay more costs.

Councilmember Ronquillo spoke to the issue including the sensitivity for homeowners, investment in the area, the blighted areas and the negative downward spiral the area was headed **(3 - 0)**, the minimal number of property owners actually living in the area, how the Agency has helped many businesses, the issue being about encouraging enterprise, eminent domain including (1) other cities who have the power, (2) it being a very controversial and complicated issue, and (3) the need for people to learn about the process and their rights, and expressed his support for the process emphasizing Fresno was the 6<sup>th</sup> largest city in the State yet was 85<sup>th</sup> in tax increment.

Mr. Fitzpatrick and Ms. Montoy clarified issues and/or responded to questions of Councilmember Boyajian relative to number of unsound buildings, complying with noticing requirements, percentage of property that could be affected by eminent domain out of 1,000 acres, how existing viable businesses are dealt with, and improvements/upgrades already made and costs to conform with landscaping.

\*After unscheduled oral communications, Chair Duncan thanked all for their input, reiterated the hearing was officially closed, there would be no further public testimony, and final action would be taken December 17<sup>th</sup> at 8:30 a.m.

#### AGENCY UNSCHEDULED ORAL COMMUNICATIONS:

APPEARANCE BY BARBARA HUNT REGARDING CONCERNS WITH (1) PAY OF A REDEVELOPMENT AGENCY STAFF MEMBER, AND (2) LEGALITY OF THE RDA AND ITS PROJECTS

Appearance made; no action taken.

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session and took a brief recess.

**RECESS - 10:28 A.M. - 10:41 A.M.** Acting President Castillo arrived later.

**(10:00 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 41, TRACT NO. 5086

**1. RESOLUTION NO. 2002-382 - ANNEXING TERRITORY TO CFD NO. 2, AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION NO. 2002-383 - CALLING A SPECIAL MAILED BALLOT ELECTION**

**3. RESOLUTION NO. 2002-384 - DECLARING ELECTION RESULTS**

**4. \* BILL NO. B-63 - ORDINANCE NO. 2002-62 - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2002-2003 AND FUTURE TAX YEARS WITHIN AND RELATING TO CFD NO.2, ANNEXATION NO. 41**

President Perea announced the time had arrived to consider the issue and opened the hearing. A motion and second was made to approve staff's recommendation.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the above entitled Resolution Nos. 2002-382, 2002-383, and 2002-384 hereby adopted, and the above entitled Bill No. B-63 adopted as Ordinance No. 2002-62, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | Castillo  |

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**(10:05 A.M.)** HEARING ON COMMUNITY FACILITIES DISTRICT (CFD) NO. 2, ANNEXATION NO. 42 TRACT NO. 5103

**1. RESOLUTION - ANNEXING TERRITORY TO CFD NO. 2, AND AUTHORIZING THE LEVY OF A SPECIAL TAX**

**2. RESOLUTION - CALLING A SPECIAL MAILED BALLOT ELECTION**

**3. RESOLUTION - DECLARING ELECTION RESULTS**

**4. \* BILL - LEVYING A SPECIAL TAX FOR THE PROPERTY TAX YEAR 2002-2003 AND FUTURE TAX YEARS WITHIN AND RELATING TO CFD NO.2, ANNEXATION NO. 42**

President Perea announced the time had arrived to consider the issue and opened the hearing.

Engineering Services Manager Kirn advised there was a technicality with one of the notaries that needed to be completed and recommended the public hearing be conducted and the hearing continued one week for final action.

Barbara Hunt, 246 W. Byrd, spoke to the issues of property taxes and general fund dollars. Acting President Castillo arrived at 10:43 a.m.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the hearing on CFD No. 2, Annexation No. 42, continued to December 10, 2002, for final action, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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**(10:15 A.M.) HEARING ON THE FORMATION OF UNDERGROUND UTILITY DISTRICT (UUD) NO. FRE-81, PROPERTY LOCATED AT WILLOW AVENUE BETWEEN NEES AND SHEPHERD AVENUES**

**1. REVIEW THE UUD THREE-YEAR PLAN**

**2. RESOLUTION NO. 2002-385 - ESTABLISHING UUD NO. FRE-81**

President Perea announced the time had arrived to consider the issue and opened the hearing.

Barbara Hunt, 246 W. Byrd, spoke to the issue.

Upon call, no one else wished to be heard and President Perea closed the public testimony portion of the hearing.

Councilmember Calhoun reviewed the background of the issue and how he had questions about the process, allocation of funds, and how priorities were set; stated although staff responded to his questions he was still unclear with the process; advised his particular interest was Blackstone south of Shields and why undergrounding had not occurred stating Blackstone was the north/south “backbone” of the city; and noting a procedure was in place requested staff further explain the process, indicate on a map where UUD’s have occurred, and advise how lower Blackstone Avenue could possibly be included next year, with Engineering Services Manager Kirn responding to questions, utilizing a map to illustrate, and recommending staff develop score criteria for future rankings and explained. Councilmember Calhoun thanked staff, requested Blackstone south of Shields be considered and suggested the Redevelopment Agency be consulted, and made a motion to approve staff’s recommendation, which motion was seconded and later acted upon.

Discussion ensued with City Attorney Montoy, Transportation Manager Madewell and Mr. Kirn clarifying issues and responding to questions of Acting President Castillo and Councilmembers Ronquillo, Boyajian, Quintero and Calhoun relative to Rule 20A and if they would lower the \$1 million cost for proposed FRE-81, if Fresno County was partner, the Sugar Pine Trail grant and the city’s and P.G. & E’s contributions, a District 4 project requiring undergrounding and giving direction to staff to begin the process, if P.G. & E. and cable lines needed to be separate or could be included in the same trench, support for Blackstone south to downtown, how areas are prioritized, request to provide Council with a list of proposed areas, **(4 - 0)** degradation of pavement and possibility of trench-cut fees, if undergrounding could only occur on major streets, historic streets in the Tower District and beautification efforts, criteria for funding and if economic impact would be looked at, need to make visual a top criteria to mitigate the bad perception of the inner-city, if staff would be asking Council to submit areas, utility companies designating funds for certain areas, and the various areas desired by Council for undergrounding and cost implications.

**140-243**

**12/3/02**

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, RESOLVED, the UUD Three-Year Plan reviewed and the above entitled Resolution No. 2002-385 hereby adopted, by the following vote:

|      |   |   |
|------|---|---|
| Ayes | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
|------|---|---|

Noes : None  
Absent : None

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**(10:30 A.M.)** HEARING ON PLAN AMENDMENT NO. A-01-31, REZONING APPLICATION NO. R-01-54, AND ENVIRONMENTAL FINDINGS FILED BY JAMES LOGAN ON BEHALF OF SANDALWOOD DEVELOPMENT, PROPERTY LOCATED ON THE SOUTHWEST CORNER OF E. SPRUCE AVENUE AND N. WHITNEY AVENUE (DISTRICT 6) (**REQUEST BY COUNCILMEMBER DUNCAN TO CONTINUED TO AFTER 1/14/03**)

1. CONSIDER AND ADOPT FINDING OF MITIGATED NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. A-01-31, R-01-54, C-02-86
2. RESOLUTION - AMENDING THE WOODWARD PARK COMMUNITY PLAN
3. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AE-5/UGM TO R-2/UGM

President Perea announced the time had arrived to consider the issue and opened the hearing.

Councilmember Duncan advised there were still a couple of issues to be worked out and requested the matter be continued to after January 14, 2003, as noted above.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of Councilmember Duncan, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the hearing on Plan Amendment No. A-01-31, Rezoning Application No. R-01-54, filed by James Logan on behalf of Sandalwood Development, continued to after January 14, 2003, (date and time to be determined later), by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea  
Noes : None  
Absent : None

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**(10:45 A.M.)** HEARING ON REZONING APPLICATION NO. R-02-33 AND ENVIRONMENTAL FINDINGS, FILED BY CAMBRIDGE HOMES, PROPERTY LOCATED ON THE WEST SIDE OF N. BRAWLEY AVENUE BETWEEN W. SHIELDS AND W. DAKOTA AVENUES (DISTRICT 1)

1. CONSIDER AND ADOPT FINDING OF NEGATIVE DECLARATION FOR ENVIRONMENTAL ASSESSMENT NO. T-4701, R-02-33
2. **BILL NO. B-64 - ORDINANCE NO. 2002-63** - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM AE-5/UGM TO R-1/UGM

President Perea announced the time had arrived to consider the issue and opened the hearing.

**140-244**

**12/3/02**

Barbara Hunt, 246 W. Byrd, spoke to the issue.

Upon call, no one else wished to be heard and President Perea closed the public hearing.

Planner Lewis and Planning Manager Beach responded to questions of Councilmember Boyajian relative to



mitigation measures for Brunswick and Dakota, widening of Fountain to Dakota, Shields/Brawley traffic signal and if the developer would be contributing to that, if the developer would contribute to widening Brawley, if future development was foreseen on Shields, more development contributing to traffic impacts, and if the same criteria/issues for this project were being used/looked at for projects further north.

On motion of Councilmember Duncan, seconded by Councilmember Ronquillo, duly carried, RESOLVED, the Mitigated Negative Declaration for Environmental Assessment No. R-4701, R-02-33, dated October 17, 2002, hereby approved, and the above entitled Bill No. B-64 rezoning the subject property to become effective for any portion of the site for which a final map of Vesting Tentative Tract No. 4701 is recorded adopted as Ordinance No. 2002-63, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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**(11:15 A.M.) HEARING ON REZONING APPLICATION NO. R-02-042, AND ENVIRONMENTAL FINDINGS, FILED BY MARIA MOROTTA, PROPERTY LOCATED AT 1353 AND 1357 N. FIRST STREET (DISTRICT 7)**

**1. CONSIDER AND ADOPT FINDING OF CATEGORICAL EXEMPTION FOR ENVIRONMENTAL ASSESSMENT NO. R-02-41**

**2. BILL NO. B-65 - ORDINANCE NO. 2002-64 - AMENDING THE OFFICIAL ZONE MAP TO REZONE FROM C-5 TO R-1**

President Perea announced the time had arrived to consider the issue and opened the hearing.

Upon call, no one wished to be heard and President Perea closed the hearing.

On motion of President Perea, seconded by Acting President Castillo, duly carried, RESOLVED, the categorical exemption for Environment Assessment No. R-02-042, dated October 23, 2002, hereby approved, and the above entitled Bill No. B-65 adopted as Ordinance No. 2002-64, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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**(11:30 A.M.) PRESENTATION BY MAKE A WISH FOUNDATION RELATIVE TO MONETARY ISSUES ASSOCIATED WITH AN EVENT AT THE DOWNTOWN STADIUM - COUNCILMEMBER QUINTERO**

**1. PRESENTATION BY FRESNO COUNTY SUPERVISOR BOB WATERSTON**

**140-245**

**12/3/02**

Councilmember Quintero introduced Glennis Crawford of Make A Wish, and Supervisor Waterston, and gave a brief overview of the issue and requested the City Attorney meet with the Make A Wish Foundation for clarification of expenses and profits related to the 9-11 fund raiser and report back with findings and recommendations for reimbursement, if necessary, on December 17<sup>th</sup>.

Ms. Crawford and Supervisor Waterston reviewed the issue and expressed concern with the process and length of time it took to organize the event, and spoke to the 58 pending wishes and need for the 20% concessions profit to grant 10 wishes before Christmas and to the breakdown/"ball being dropped" by City staff.

City Manager Hobbs submitted to Council a memorandum from Convention Center Director Valdez with the latest information, and Mr. Valdez responded to concerns and stated at issue was the granting of the 20% of concessions advising staff was not authorized to do so. Upon question, Mr. Valdez and Ms. Crawford stated it was their understanding the City would give their concessions profit to Make A Wish.

Councilmember Calhoun spoke to the successful Barney event his office sponsored; advised he was asked to waive the 20% but he told PBS the city could not "give things away" clarifying the City's share of the profits went to pay off the stadium debt; and questioned what the options were from a legal perspective, with City Attorney Montoy responding a commitment was made that was not authorized and an action item would have to be prepared for Council to decide if they want to give the 20% to Make A Wish. Councilmember Calhoun stated he was concerned about long-term implications and he would not support giving the 20% as it would lead to a precedent. Ms. Montoy advised she had recommended in the past that a procedure be developed in writing to avoid these types of misunderstandings.

Supervisor Waterston withdrew the request for the City's profits stating they did not want to get in the middle of city policy, and clarified his concern with City staff was they never told Ms. Crawford what they were now telling Council and elaborated, with President Perea responding and stating this has been an evolving process with miscommunications and disagreed with the comment that City staff dropped the ball.

Extensive discussion ensued with Councilmember Ronquillo speaking to his Corvette event and his desire to have staff meet again with the Grizzlies to get the "bottom line cost" for an event (**5 - 0**); Councilmember Boyajian stating the process was not known yet and concurring with Councilmember Ronquillo on the need to revisit the issue; Mr. Valdez speaking further to the issue stating dealing with the Grizzlies is where the process fails and lacks something and explaining; Councilmember Boyajian questioning if there was any chance for a better process; President Perea speaking to the deal the City made with the Grizzlies and the challenge being to get the Diamond Group to buy into the City's policy; Ms. Montoy stating she felt there was some leeway in the agreement and there was no need to re-negotiate; President Perea recommending staff meet with the San Francisco Giants ownership stating they carried a lot of weight with their franchisees; Assistant City Manager Souza clarifying the challenges were in booking dates and identifying the cost for using the facility, and advising staff met with the Grizzlies and was in the process of formalizing specific costs that can be expected and would provide a report on that issue and also on how to deal with concessions, with discussion ensuing on concessions; Councilmember Duncan stating (1) it was not the Grizzlies fault, (2) this was a pure case of trying to "pass the buck" and he wanted to hear staff say "we made a mistake, we'll fix it and it won't happen again", (3) apologized to Make A Wish for what they went through and donated \$250 to the organization, and (4) stating he wanted to see some changes and people held accountable; Assistant City Attorney Hale responding to questions of Councilmember Quintero relative to the difficulty

**140-246**

**12/3/02**

in dealing with the Grizzlies, i.e. not returning phone calls or meeting to reach some kind of agreement (with Councilmember Quintero explaining that was why, in part, he made the commitment and why the issue was before Council this date); Ms. Montoy clarifying Make A Wish withdrew their request for reimbursement and it was now an internal matter, with Councilmember Quintero stating he would meet with the city attorney; Acting President Castillo recommending staff not set anything up until money for an event is received from the sponsor, and stating (1) the ball

was dropped when the City negotiated all the deal points, and (2) the City gave a lot for the stadium and was getting nothing but headaches; Councilmember Calhoun reiterating his experience was positive, staff was helpful, PBS was told they would not get the 20%, and that staff was going through a growing process and clarifications would now happen; and Mr. Hobbs concurring with the need to work with the Grizzlies and clarify issues in the upcoming report.

President Perea advised the matter would be handled at the staff level and there was no further discussion.

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**LUNCH RECESS - 12:23 P.M. - 2:04 P.M.** Councilmember Quintero arrived later.

**(2:00 P.M.) CONTESTED CONSENT CALENDAR ITEMS:**

**(1-E) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH BSK FOR MATERIALS TESTING AND INSPECTION FOR THE SPECIAL INSPECTION ON THE NEW SURFACE WATER TREATMENT PLANT (SWTP) AT CHESTNUT AND BEHYMER AVENUES**

Barbara Hunt, 246 W. Byrd, spoke to issues related to BSK and to the need to insure drinking water is not contaminated.

On motion of Acting President Castillo, seconded by Councilmember Calhoun, duly carried, **RESOLVED**, a professional services agreement with BSK in an amount not to exceed \$316,201 for materials testing and inspection hereby approved for the Special Inspection on the Surface Water Treatment Plant (SWTP), by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | Quintero  |

**(1-F) RESOLUTION NO. 2002-386 - AUTHORIZING AN APPLICATION TO THE CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD FOR A WASTE TIRE ENFORCEMENT GRANT, AND AUTHORIZE THE CITY MANAGER TO SIGN ON BEHALF OF THE CITY**

Code Enforcement Manager Villa responded to questions of Councilmember Calhoun relative to how serious the tire problem was, specifics of the grant, how monitoring tire companies would help when everyday citizens were doing the illegal dumping, the \$2 per tire paid to the State and if that was where grant funds came from, why the city did not seek a grant funds back in 1996, and term of the grant. Councilmember Quintero arrived at 2:14 p.m. A motion and second was made to adopt the resolution. Councilmember Ronquillo left the meeting at 2:15 p.m. President Perea noted a report on alley closures was forthcoming and stated that would help to alleviate some of the problem.

On motion of Councilmember Calhoun, seconded by Councilmember Duncan, duly carried, **RESOLVED**, the above entitled Resolution No. 2002-386 hereby adopted, by the following vote:

**140-247**

**12/3/02**

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Perea |
| Noes   | : | None   |
| Absent | : | Ronquillo  |

- - - -

**(2:05 P.M.) APPEARANCE BY MICHAEL JORDAN TO DISCUSS THE POSSIBLE USE OF “SAY YES TO DRUG AND CRIME-FREE NEIGHBORHOODS” LOGO WITHIN THE CITY OF FRESNO**

Appearance made and Mr. Jordan was asked to meet with city manager staff to see if and how this might tie in with similar city programs. Councilmember Ronquillo returned to the meeting at 2:19 p.m.

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**(2:10 P.M.) APPEARANCE BY VIOLET HOWARD TO DISCUSS A HOUSING AND URBAN DEVELOPMENT (HUD) REHABILITATION LOAN FOR A HOME LOCATED AT 2035 E. LEWIS (REQUEST FOR FORGIVENESS OF LOAN)**

Appearance/request made (**6 - 0**) and discussion ensued with Assistant Controller Bradley and Mrs. Howard clarifying issues and responding to Council questions. President Perea advised he would meet with staff on the issue and contact Mrs. Howard. There was no further discussion.

- - - -

**(2:15 P.M.) PRESENTATION OF THE MAXIMUS COST RECOVERY AND SUBSIDY REDUCTION STUDY FOR PUBLIC SAFETY SERVICES**

- 1. \* RESOLUTION NO. 2002-387 - 401<sup>ST</sup> AMENDMENT TO MFS RES. 80-420 AMENDING VARIOUS CURRENT POLICE AND FIRE FEES FOR SERVICE**
- 2. DISCUSSION ON PROPOSED NEW POLICE AND FIRE FEES**

City Manager Hobbs noted this issue was a follow up to a Council authorized study to reexamine fees and subsidies for various city services adding this type of review had not been done since 1988; noted discussion this date would center on public safety services, who pays and what is fair; and stated Council would need to determine which fees the entire community should pay for and which fees the users of the particular service should pay for.

Controller Quinto noted before Council this date were the results of the MAXIMUS User Fee Study for the police and fire departments only; stated the study revealed subsidy levels of special services provided and staff was asking for more cost recovery to eliminate the subsidies; advised 9-1-1 hangups and the fire inspection fee were the two exceptions to the full cost recovery and explained; stated staff was also asking for action on adjusting currently existing fees and for discussion on the proposed new public safety fees; and introduced the team from MAXIMUS, Inc., who conducted the study and were in attendance.

MAXIMUS partner Richard Purl of Sacramento gave an overview of the issue and study including their findings and recommendations, displaying a chart on the General Fund Subsidy v. User Fees to illustrate, and responded to questions of President Perea relative to the baseline data report and what the net increase would be if all the fees for the two departments were approved.

Speaking in support of the new fees and/or to related issues were: Barbara Hunt, 246 W. Byrd; John Mitchell, 439 N. Chestnut; and Marsha Simpson, 2881 E. Huntington Blvd., #116.

Councilmember Duncan entered into the record a letter dated November 27, 2002, from Stebbins Dean, CEO of the Greater Fresno Area Chamber of Commerce, advising of their opposition to five new fire department fees, a copy of which is on file in the office of the City Clerk; stated user fee revisions were long overdue, thanked all involved and advised he supported adjusting the existing fees; and expressed his strong concern with some of the proposed new fees, i.e., annual fire inspection, arson investigation, and vehicles fires and elaborated, stating he felt some of the new fees were ill timed, were getting away from reality and had no basis for justification, and added he preferred the new fees be taken off the table, with Mr. Hobbs and City Attorney Montoy responding throughout to his questions. Councilmember Duncan made a motion to approve staff's recommendations for the existing user fees, with President Perea stating he would second the motion if Council designated fire department fees staying solely with the fire department. Councilmember Duncan concurred with the provision adding he would also like to see some of the police department fees reallocated to the fire department, whereupon President Perea seconded the motion.

Upon question of Acting President Castillo, Ms. Quinto confirmed that, by law, the city could not charge more than the \$325 DUI traffic stop cost. Ms. Montoy clarified at issue this date was a request for action on current fees only and for Council discussion and direction on the proposed new fees. Mr. Hobbs stated he had hoped there would be interest on the new fees and suggested a committee of community members be established to work with the Council Fiscal Forecasting Committee on those fees.

Discussion ensued with Ms. Quinto, Ms. Montoy, Mr. Hobbs, Chief Dyer and Mr. Dean responding to questions and comments of Acting President Castillo, President Perea, and Councilmembers Ronquillo, Boyajian and Calhoun relative to support for recovering actual costs, concern with inability to collect more for DUI services, timeline for staff to report back with recommendations on the new fees (with Ms. Montoy stating early January), how long MAXIMUS had been reviewing the fees, if \$66.00 was a realistic fee for 9-1-1 hangups, specifics of the loud disturbance response fee, difficulty in following the staff report and chart, why MAXIMUS was not making any recommendations, support for adjusting existing fees and the city attorney reporting back on new fees, and if approving some increases and waiting on others would meet the concerns of the Chamber of Commerce.

Councilmember Calhoun expressed his concern with earmarking fees to the fire department emphasizing fire was a general fund--not enterprise--department and added he would not support the motion. President Perea stated earmarking funds was legally permissible and a policy question, and Mr. Hobbs stated although the motion called for fees going back to fire they would actually go back to the general fund and the dollar amounts would find their way to public safety. Councilmember Calhoun stated he was not convinced 9-1-1 hangup fees should be taken off the table stating it was a significant problem taking significant resources, with Mr. Hobbs, an unidentified police Lieutenant and a MAXIMUS representative clarifying issues and responding to questions relative to whether other cities imposed that fee and why it was being recommended. Councilmember Calhoun offered an amendment to the motion to exclude fees going to specific departments, with Councilmember Duncan stating he would not accept the amendment and Councilmember Calhoun reiterating he would not be supporting the motion.

Lengthy discussion continued with Mr. Hobbs, Ms. Quinto, Ms. Montoy and Chief Smith responding to questions/comments of President Perea relative to whether the Mayor supported all the proposed new fees except the

9-1-1 hangups, if the budget was balanced on the assumption that the fee increases would be approved, the \$1.875 million in current police user fees and amount expected to be collected, current fire department user fees, medical aid response expenses and if direction could be given this date for the fire department to meet with American Ambulance an Fresno County to address contract provisions and payment terms, what the City's obligation was to respond to medical aid calls, desire for the current and future Councils to look at earmarking as much money as possible to the fire department for needed staffing and equipment, the front line fire trucks and reserve trucks, concern with utilizing reserves that are not fully equipped for day-to-day operations, number of trucks with inoperable ladders, need to commit dollars back to the fire department, and need to find revenue streams and the business tax loophole issue.

**(8 - 0)** Ms. Montoy clarified fire fees going to fire and police fees going to police currently existed and if Council wanted police fees to go to fire a budget AAR would be necessary. President Perea clarified the motion was for fire to keep their fees and for a discussion to be held in the next few months relative to a portion of new police fees going to fire, with Ms. Quinto, Ms. Montoy and Mr. Hobbs further clarifying how fees are shown in the budget.

On motion of Councilmember Duncan, seconded by President Perea, duly carried, RESOLVED, the above entitled Resolution No. 2002-387 hereby adopted, by the following vote:

|        |   |  |
|--------|---|--|
| Ayes   | : | Boyajian, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | Calhoun  |
| Absent | : | None   |

On motion of Acting President Castillo, seconded by President Perea, duly carried, RESOLVED, staff directed to report back on January 7, 2003, at 2:00 p.m. with recommendations on proposed new fire and police fees, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Quintero, Ronquillo, Perea |
| Noes   | : | Duncan  |
| Absent | : | None  |

On motion of President Perea, seconded by Councilmember Calhoun, duly carried, RESOLVED, staff directed to discuss the issue of medical response fees with American Ambulance and Fresno County, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

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Brief discussion ensued on convening in closed session at this time, whereupon Council decided to continue with agenda Item 5-D which was set for 2:35 p.m.

COMMISSION'S APPROVAL OF CONDITIONAL USE PERMIT (CUP) NO. C-02-145 RELATING TO THE PLACEMENT OF A CELLULAR TELEPHONE MONOPOLE ON THE WEST SIDE OF "R" STREET BETWEEN INYO AND VENTURA STREETS - COUNCILMEMBER RONQUILLO

Briefly reviewed by Councilmember Ronquillo who made a motion to set a hearing to allow Council to hear concerns and make the decision on the tower.

Larry Taylor, representing the Mariposa, South Van Ness Industrial, Convention Center, and Fulton Project Area Committees, and the Chamlian Group and Coffee Break Service, submitted written material to Council and advised he was appealing the planning commission's decision and spoke in support of a Council hearing recommending December 17<sup>th</sup>. Upon question, Planning Manager Beach advised December 17<sup>th</sup> was acceptable for noticing purposes.

On motion of Councilmember Ronquillo, seconded by Councilmember Boyajian, duly carried, RESOLVED, a City Council hearing to consider the Planning Commission's approval of CUP No. C-02-145, set for December 17, 2002, at a time to be determined, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Quintero, Ronquillo, Perea |
| Noes   | : | Duncan  |
| Absent | : | None  |

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**RECESS - 4:12 P.M. - 4:20 P.M.**

**(2:45 p.m. #2) CLOSED SESSION:**

**(A) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:**

1. OLD HAMMER FIELD/FRESNO AIR TERMINAL ("OHF/FAT") ENVIRONMENTAL SITE; AND BAKMAN WATER COMPANY V. CITY OF FRESNO, ET AL.
2. CITY OF FRESNO V. COLEMAN, ET AL.

**(B) JOINT SESSION WITH THE REDEVELOPMENT AGENCY - CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME: REDEVELOPMENT AGENCY V. JOSEPH SAHAKIAN; COHAIG SAHAKIAN (WRIGHT POPCORN AND NUT)**

The City Council met in regular closed session and joint closed session with the Redevelopment Agency in Room 2125 at the hour of 4:20 p.m. to consider the above issues and reconvened in regular open session at 5:01 p.m.

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**(3-A) \* BILL NO. B-56 - ORDINANCE NO. 2002-65 - AMENDING SECTION 3-202 OF THE FRESNO MUNICIPAL CODE RELATING TO LANGUAGE CHANGES IN SUBSECTION (f) AND THE ADDITION OF SUBSECTION (g), SALE OR OTHER DISPOSITION OF SURPLUS PROPERTY**

On motion of Councilmember Calhoun, seconded by President Perea, duly carried, RESOLVED, the above entitled Bill No. B-56 adopted as Ordinance No. 2002-65, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea  
Noes : None  
Absent : None

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**(3-B) CONSIDER ELIMINATION OF CERTAIN URBAN GROWTH MANAGEMENT (UGM) AT-GRADE RAILROAD CROSSING FEES**

**1. \* RESOLUTION - 400<sup>TH</sup> AMENDMENT O MFS RES. 80-420 TO AMEND THE ELIMINATION OF CERTAIN UGM AT-GRADE RAILROAD CROSSING IMPACT FEES**

**2. \* RESOLUTION - 44<sup>TH</sup> AMENDMENT TO AAR 2002-216 APPROPRIATING \$1,259,500 FOR REFUNDS TO PROPERTY OWNERS WITHIN UGM AT-GRADE RAILROAD CROSSING AREAS A/C, A/D, E/1A, C/DA AND A/E**

Councilmember Duncan advised he received a request to delay the matter 30 days, and Assistant City Manager Souza and City Attorney Montoy advised they also received requests to delay and were in concurrence. Upon question, Mr. Souza recommended the matter be rescheduled this date to December 17<sup>th</sup> adding if issues are still unresolved it could again be delayed. Brief discussion ensued on the issues of noise and at-grade railroad crossing separations and fees, with Mr. Souza and Engineering Services Manager Kirn responding to questions.

On motion of Councilmember Duncan, seconded by Acting President Castillo, duly carried, RESOLVED, the the above Item 3-B rescheduled for December 17, 2002, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo  
Noes : None  
Absent : None  
Abstain : Perea

- - - -

**(3-C) APPROVE SITE PLAN NO. S-02-217, FILED BY GARY VIGEN & ASSOCIATES, PROPERTY LOCATED ON THE EAST SIDE OF N. VAN NESS AVENUE BETWEEN E. MILDREDA AND E. FRANKLIN AVENUES (DISTRICT 3)**

On motion of Councilmember Ronquillo, seconded by Councilmember Boyajian, duly carried, RESOLVED, the site plan and elevations for Site Plan Application No. S-02-217 hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea  
Noes : None  
Absent : None

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**(5-A) UPDATE FROM THE FISCAL FORECASTING COMMITTEE AND CLARIFICATION OF AMENDMENT TO CONTRACT WITH THE MACIAS CONSULTING GROUP**



Councilmember Calhoun stated it was his understanding the previously directed contract amendment had not occurred; clarified what the original intent and suggestion of Fiscal Forecasting Committee was and how the Macias Group had “very wisely” not begun the process of preparing information for their presentation to Council as they would have been working without the benefit of an amended contract and added it was clear there would not be time for a presentation by Macias before the last December meeting; advised (1) there was an interest by Chief Dyer to extend the police contract with Macias until January, (2) there was still \$30,000 left on that contract, (3) he felt extending the contract would be in the best interests of the remaining resources, and (4) stated when the police department and Macias complete their work in January the new Council could then revisit the issue if desired; and recommended this issue be allowed to “die a dignified death” at this time. Brief discussion ensued, no action was necessary, and there was no further discussion.

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**(5-B) REQUEST THE CTY MANAGER TO DIRECT STAFF TO BRING TO COUNCIL ON 12/17/02, A PROPOSAL FOR A DEDICATION PLAQUE FOR THE NEW REGIONAL PARK AT JENSEN AND HUGHES AVENUES - COUNCILMEMBER RONQUILLO**

Briefly reviewed by Councilmember Ronquillo who stated he wanted a plaque similar to what was developed for the airport.

On motion of Councilmember Ronquillo, seconded by President Perea, duly carried, RESOLVED, the city manager requested to direct staff to bring back to Council on December 17, 2002, a proposal for a dedication plaque for the new regional park at Jensen and Hughes Avenues, by the following vote:

|        |   |   |
|--------|---|---|
| Ayes   | : | Boyajian, Calhoun, Castillo, Duncan, Quintero, Ronquillo, Perea |
| Noes   | : | None  |
| Absent | : | None  |

Councilmember Ronquillo stated the city manager indicated he could bring the proposal back on December 10th.

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**(5-C) DISCUSS POSSIBLE OPPORTUNITIES WITH FRESNO COUNTY TO PARTNER HELICOPTER POLICING EFFORTS TO INCREASE OVERALL PROGRAM EFFICIENCIES - COUNCILMEMBER CALHOUN**

Laid over to December 10, 2002, at the direction of Councilmember Calhoun.

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#### **UNSCHEDULED ORAL COMMUNICATIONS:**

APPEARANCE BY SANDRA BROCK REGARDING DEFERRED COMPENSATION COMMITTEE MEETINGS, MINUTES, REQUEST FOR COUNCIL TO RATIFY CONTRACT AMENDMENTS, AND COMMITTEE COMPOSITION AND NEED FOR COUNCIL APPOINTMENT

Appearance made; no action taken. Barbara Hunt spoke briefly to the funds.

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There being no further business to bring before the City Council, the hour of 5:20 p.m. having arrived and hearing no objections, President Perea declared the meeting adjourned, and Council convened to the 2<sup>nd</sup> floor foyer for the Christmas Tree Lighting Ceremony.

**APPROVED** on the 10<sup>th</sup> day of December, 2002.

|                                |                                       |
|--------------------------------|---------------------------------------|
| _____<br>/s/ HP                | ATTEST: _____<br>/s/ ys               |
| Henry Perea, Council President | Yolanda Salazar, Assistant City Clerk |